

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

FILED

MAR -1 2023

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

UNITED STATES OF AMERICA,

Plaintiff,

V.

JOHN CRUZ,

Defendant.

4:23CR084 AGF/JMB

## INDICTMENT

The Grand Jury charges that:

At all times material to this Indictment:

1. The “dark web,” or “Darknet,” is a portion of the “deep web” of the Internet, where individuals must use an anonymizing software or application to access content and websites. Within the dark web, criminal marketplaces operate, allowing individuals to buy and sell illegal items, such as drugs, firearms, and other hazardous materials, with greater anonymity than is possible on the traditional Internet (sometimes called the “clear web” or simply the “web”). “Vendors” are the dark web’s sellers of goods and services, often of an illicit nature, and they do so through the creation and operation of “vendor accounts” on dark web marketplaces. Customers, meanwhile, operate “customer accounts.” Vendor and customer accounts are not identified by numbers, but rather monikers or “handles,” much like the username one would use on a clear web site. If a moniker on a particular marketplace has not already been registered by another user, vendors and customers can use the same moniker across multiple marketplaces, and based on seller and customer reviews, can become well known as “trusted” vendors or customers. It is also

possible for the same person to operate multiple customer accounts and multiple vendor accounts at the same time.

2. Dread is a Darknet forum site similar to the clear website “Reddit.” Dread is commonly used as a forum to discuss illegal activities such as the manufacturing of drugs, sale of drugs, and ways to avoid law enforcement. Users can maintain “sub-dread” pages on Dread, which are similar to home pages.

3. Wickr Me is a messaging application that can be installed onto a cellular device, computer, or other electronic device. The application allows for the exchange of end-to-end encrypted and content-expiring messages, including text, photo, and video. The application does not require users to provide anything other than a username and password upon registration, and therefore, communications can occur anonymously. Messages sent and received through Wickr Me are encrypted locally on the user’s device and each message requires a separate key to unlock, and therefore decipher, the content.

4. Cryptocurrency, a type of virtual currency, is a decentralized, peer-to-peer, network-based medium of value or exchange that may be used as a substitute for fiat currency to buy goods or services or exchanged for fiat currency or other cryptocurrencies. Examples of cryptocurrency are Bitcoin, Litecoin, and Ether. Cryptocurrency can exist digitally on the Internet, in an electronic storage device, or in cloud-based servers. Although not usually stored in any physical form, public and private keys used to transfer cryptocurrency from one person or place to another can be printed or written on a piece of paper or other tangible object. Cryptocurrency can be exchanged directly person to person, through a cryptocurrency exchange, or through other intermediaries. Generally, cryptocurrency is not issued by any government, bank, or company; it is instead generated and controlled through computer software operating on a decentralized peer-

to-peer network. Most cryptocurrencies have a “blockchain,” which is a distributed public ledger, run by the decentralized network, containing an immutable and historical record of every transaction. Cryptocurrency is not illegal in the United States.

5. Cryptocurrency is stored in a virtual account called a wallet. Wallets are software programs that interface with blockchains and generate and/or store public and private keys used to send and receive cryptocurrency. A public key or address is akin to a bank account number, and a private key is akin to a PIN number or password that allows a user the ability to access and transfer value associated with the public address or key. To conduct transactions on a blockchain, an individual must use the public address (or “public key”) and the private address (or “private key”). A public address is represented as a case-sensitive string of letters and numbers, 26–35 characters long. Each public address is controlled and/or accessed through the use of a unique corresponding private key—the cryptographic equivalent of a password or PIN—needed to access the address. Only the holder of an address’s private key can authorize any transfers of cryptocurrency from that address to another cryptocurrency address.

6. Bitcoin (“BTC”) is a type of cryptocurrency.<sup>1</sup> Payments or transfers of value made with bitcoin are recorded in the Bitcoin blockchain and thus are not maintained by any single administrator or entity. Individuals can acquire bitcoin through exchanges (i.e., online companies which allow individuals to purchase or sell cryptocurrencies in exchange for fiat currencies or other cryptocurrencies), bitcoin ATMs, or directly from other people. It is also possible to earn bitcoin by verifying other users’ transactions, a process known as “mining.” Even though the public addresses of those engaging in cryptocurrency transactions are recorded on a blockchain, the

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<sup>1</sup> Since Bitcoin is both a currency and a protocol, capitalization differs. Uppercase Bitcoin will denote protocol, software, and community whereas lowercase bitcoin will denote units of the currency.

identities of the individuals or entities behind the public addresses are not recorded on these public ledgers. If, however, an individual or entity is linked to a public address, it may be possible to determine what transactions were conducted by that individual or entity. Bitcoin transactions are therefore sometimes described as “pseudonymous,” meaning that they are partially anonymous. And while it’s not completely anonymous, bitcoin allows users to transfer funds more anonymously than would be possible through traditional banking and financial systems. To transfer bitcoin to another address, the payor transmits a transaction announcement, cryptographically signed with the payor's private key, across the peer-to-peer Bitcoin network. The Bitcoin address of the receiving party and the sender's private key are the only pieces of information needed to complete the transaction. These two keys by themselves rarely reflect any identifying information. As a result, little-to-no personally identifiable information about the payor or payee is transmitted in a Bitcoin transaction itself. Once the payor's transaction announcement is verified, the transaction is added to the blockchain, a decentralized public ledger that records all Bitcoin transactions. The blockchain logs every Bitcoin address that has ever received a bitcoin and maintains records of every transaction for each Bitcoin address.

7. Virtual currency administrators and exchangers, including an individual exchanger operating as a business, are considered money services businesses. Bitcoin “exchangers” and “exchanges” are individuals or companies that exchange bitcoin for other currencies, including U.S. dollars. To acquire bitcoin, a typical user will purchase them from a Bitcoin “exchanger.” Bitcoin exchangers generally accept payments of fiat currency (currency that derives its value from government regulation or law), or other convertible virtual currencies. When a user wishes to purchase bitcoin from an exchanger, the user will typically send payment in the form of fiat currency, often via bank wire or ACH, or other convertible virtual currency to an exchanger, for



the corresponding quantity of bitcoin, based on a fluctuating exchange rate. The exchanger, usually for a commission, will then either sell the user bitcoin from the exchange's reserves or will attempt to broker the purchase with another user who is trying to sell bitcoin. The purchased bitcoin are then transferred to the purchaser's Bitcoin address, allowing the user to conduct transactions with other Bitcoin users via the Internet.

8. Under the Federal Food, Drug, and Cosmetic Act (FDCA), Title 21, United States Code, Sections 301 et seq., the term “drug” includes any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals, or an article (other than food) intended to affect the structure or function of the body of man or other animals. 21 USC § 321(g)(1).

9. Alprazolam is a benzodiazepine used to treat anxiety disorders. Alprazolam is assigned to Schedule IV of the Controlled Substances Act and is available only by prescription. Pfizer Pharmaceuticals markets its pills containing alprazolam under the brand name Xanax. Several companies sell generic versions of Xanax. These generic versions are stamped with identifying numbers assigned by the National Drug Code such as, “B707” supplied by Breckenridge Pharmaceutical, Inc., “2090” supplied by Qualitest Pharmaceutical, Inc., and “S903” supplied by Dava Pharmaceutical, Inc. Bromazepam and clonazepam are both benzodiazepine derivatives that are not scheduled substances. Neither are ingredients in Xanax.

10. All of the substances mentioned in this document meet the statutory definition of drug. The introduction or delivery for introduction into interstate commerce of any misbranded drug is prohibited. 21 USC § 321(a). Misbranding encompasses dispensing without a valid prescription a drug intended for use by man which, because of its toxicity or potential harmful effect, was not safe for use except under supervision of a licensed practitioner or where its FDA-

approved application limited it to prescription use. 21 USC § 353 (b)(1). Misbranding also occurs when the drug was manufactured, prepared, propagated, compounded, or processed in an establishment not registered with the Secretary of Health and Human Services. 21 USC § 352(o).

### **COUNT I**

The Grand Jury further charges that:

11. The allegations contained in paragraphs 1 through 10 are realleged as if set forth fully.

12. Beginning in November 2019 and continuing through July 2021, in the Eastern District of Missouri, Western District of New York, and elsewhere,

#### **JOHN CRUZ a/k/a “Fortunecookiez”**

the defendant herein, did knowingly, and unlawfully combine, conspire, agree, and confederate together with B.A., FNU LNU a/k/a “Alphamanbearpig” and with persons, both known and unknown to this Grand Jury, with the intent to defraud and mislead,

- a) misbranded, in violation of Title 21, United States Code, Section 331(b);
- b) caused the introduction of misbranded drugs into interstate commerce, in violation of Title 21, United States Code, Sections 331(a); and
- c) sold a counterfeit drug, in violation of Title 21, United States Code, Section 331(i)(3).

#### **MANNER AND MEANS OF THE CONSPIRACY**

13. It was part of the conspiracy that B.A. operated as a vendor of counterfeit pharmaceuticals on the Darknet using the moniker “TheBenzoBoys.” B.A. primarily sold counterfeit and generic equivalents of Xanax, both with alprazolam and with bromazepam or clonazepam.

14. It was further part of the conspiracy that B.A. obtained a pill press machine capable of forming pills from dry components with a production rate of 16,200 pills per hour. B.A. also obtained imprint stamps that are substantially indistinguishable from marks used by pharmaceutical companies selling generic forms of Xanax as referenced above. These imprints, combined with the appropriate color, shape, and size of pill, mimicked legitimate product so as to deceive, cause confusion or mistake.

15. It was further part of the drug-trafficking conspiracy that, between January 27, 2021, and March 6, 2021, B.A. purchased approximately 700 pounds of pill binder from an online website.

16. It was further part of the conspiracy that B.A. obtained alprazolam, bromazepam, and clonazepam (active ingredients) by mail from sources in China.

17. It was further part of the conspiracy that B.A. and others, at various times used pill binder, active ingredients, and the pill press to make counterfeit and misbranded pills to fulfill online orders being made through “TheBenzoBoys.” The conspirators used imprint stamps with the pill press that are substantially indistinguishable from marks assigned by the National Drug Code to pharmaceutical companies selling generic forms of Xanax.

18. Usually, B.A. communicated with customers through Wickr Me. Defendant used the moniker “Fortunecookiez” on Wickr Me. Customers placed orders through Wickr Me and usually made payment to B.A. by Bitcoin cryptocurrency. Having received payment, B.A. would deliver his processed pills either by mail or by dropping them at a previously determined “dead drop” site to be later collected by the customer. In total B.A. sold millions of pills.

19. It was further part of the conspiracy that B.A. supplied defendant with bulk quantities of counterfeit and misbranded drugs by mailing them to defendant at 10 Alpine Street #25, Rochester, NY.

20. It was further part of the conspiracy that defendant would further redistribute the counterfeit and misbranded drugs to various customers.

21. It was further part of the conspiracy that defendant paid B.A. for the counterfeit and misbranded drugs with bitcoin.

#### **OVERT ACTS**

22. On or about August 11, 2020, defendant messaged B.A. via Wickr Me and provided a Bitcoin transaction hash confirming a transfer of approximately \$17,000.00 as payment for counterfeit and misbranded drugs along with instructions to mail the counterfeit and misbranded drugs to defendant at 10 Alpine St. #25, Rochester, NY.

23. On or about August 13, 2020, B.A. mailed two Priority Mail packages containing counterfeit and misbranded drugs to the address previously provided by defendant.

24. On or about August 17, 2020, defendant received the packages sent to him by B.A. on August 13, 2020.

25. On or about August 22, 2020, B.A. mailed two Priority Mail packages containing counterfeit and misbranded drugs to the address previously provided by defendant.

26. On or about August 25, 2020, defendant received the packages sent by B.A. on August 22, 2020.

27. On or about August 27, 2020, B.A. mailed a Priority Mail package containing counterfeit and misbranded drugs to the address previously provided by defendant.



28. On August 31, 2020, defendant received the package sent by B.A. on August 27, 2020.

29. On or about October 24, 2020, defendant sent approximately \$16,000.00 in bitcoin to B.A. as payment for counterfeit and misbranded drugs.

30. On or about October 27, 2020, defendant messaged B.A. via Wickr Me and provided an address for defendant at 10 Alpine St., #25, Rochester, NY.

31. On or about November 3, 2020, B.A. mailed two Priority Mail packages containing counterfeit and misbranded drugs to the address previously provided by defendant.

32. On November 6 and 7, 2020, defendant received the packages sent by B.A. on November 3, 2020.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL.

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FOREPERSON

SAYLER A. FLEMING  
United States Attorney

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JOHN J. WARE  
Assistant United States Attorney